



Paper No. 7

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Frank L. Madaras et al.
Application No. 09/781,035
Filed: February 9, 2001
Atty Docket No. 4683-107 US

This is a decision on the petition under 37 CFR 1.137(a) filed December 17, 2003, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **GRANTED**.

The application became abandoned on July 22, 2001 for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application mailed May 21, 2001, which set a two (2) month period for reply. A Notice of Abandonment was mailed October 7, 2003.

From the evidence presented, it appears that in an attempt to correct the filing receipt to include the name of the third inventor, James Wyly and in response to the Notice to File Missing Parts, petitioner sought advice from the Office of Initial Patent Examination and was advised that the Notice mailed May 21, 2001 was sent in error. In reliance thereof and as an act of confirming the understanding that the Notice was sent in error, on May 24, 2001, Petitioner submitted a request for a corrected receipt, a copy of which is included with the instant petition. Subsequent requests for a corrected filing receipt were filed November 7, 2002 and May 16, 2003. On October 20, 2003 in response to the May 16, 2003 request for corrected filing receipt, petitioner was advised of the missing parts of the application.

Since the petitioner timely responded to the Notice on May 24, 2001 by filing a request for a corrected filing receipt to include the name of the third inventor and responded to what he believed the missing requirement was, and since Petitioner was not advised of the requirement for a legible copy of page 3 of the declaration, the delay was unavoidable.

The application has been restored to pending status.

Applicant is given TWO MONTHS from the mailing date of this decision to file a legible copy of page three of the oath and declaration in compliance with 37 CFR 1.63. Page 3 must include a legible copy of the oath and declaration with the name, residence, country or citizenship of the third inventors, in order to avoid abandonment of the application. This time period may be extended pursuant to 37 CFR 1.136(a). The newly executed oath or declaration should identify the specification to which it is directed by

reference to the above-identified application number and filing date. The response should be directed to the attention of the Office of Initial Patent Examination.

The application is being forwarded to the Office of Initial Patent Examination to await the oath or declaration and for further processing to include the issuance of a corrected filing receipt with the name of the third inventor.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

A handwritten signature in cursive script that reads "Patricia Faison-Ball". The signature is written in dark ink and is positioned above the printed name and title.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions